Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 03226/305001; P9163

	Application Number 10/603,884-Conf. #3002	Filed June 25, 2003
	First Named Inventor Robert N. Goldberg et al.	
	Art Unit 2165	Examiner T. Ponikiewski

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
 Note: No more than five (5) pages may be provided.

I am the

☐ applicant /inventor.

☐ assignee of record of the entire interest.
 See 37 CFR 3.71. Statement under 37 CFR 3.73(b)
 is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.
 Registration number _____ 46,479 _____

☐ attorney or agent acting under 37 CFR 1.34.
 Registration number if acting under 37 CFR 1.34. _____

_____
Signature
for

Robert P. Lord
Typed or printed name

(713) 228-8600
Telephone number

October 24, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of ___1___ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Robert N. Goldberg et al.

Conf. No.: 3002

Application No.: 10/603,884

Art Unit: 2165

Filed: June 25, 2003

Examiner: T. Ponikiewski

For: METHOD AND APPARATUS FOR
      FORMALLY SPECIFYING APPLICATION-
      SPECIFIC READ/WRITE CONSISTENCY

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Legal Standard for Establishing Anticipation

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). (*See* MPEP § 2131).

Arguments

A. Jensen fails to disclose a read/write consistency specification

The independent claims recite, in part, "wherein the read/write consistency specification specifies at least one of a read consistency and a write consistency to apply to the at least one artifact." This limitation of the claim requires the presence of a data structure (or file) that specifies one of the read consistency (*see e.g.*, Specification, paragraph [0028]) and the write consistency (*see*

e.g., Specification, paragraph [0029]) to apply to the artifact. Examples of read/write consistency specifications may be found, for example, in, Code Samples 1-7 of the Specification.

The Examiner has continued to assert that the following portion of Jensen teaches this limitation (*see* Office Action mailed July 24, 2006, pp. 4 and 10):

```
Second, it ensures that only one copy of an object instance is in
the cache at any given time, even if several different queries
return the same information from the database. Third, the mechanism
guarantees the integrity of data in the cache by locking data
appropriately in the structured database during a database
transaction, flushing cache data at the end of each transaction, and
transparently re-reading the data and reacquiring the appropriate
locks for an object instance whose data has been flushed.  (Jensen,
col. 4, ll. 41-49)
```

A review of the aforementioned portion of Jensen reveals no disclosure of a read/write consistency specification (or any other data structure) that specifies one of the read consistency and the write consistency to apply to the artifact. In fact, the portion of Jensen cited by the Examiner is directed to ensuring the integrity of data in the cache without any disclosure of a specification that specifies one of the read consistency and the write consistency to apply to the artifact.

Moreover, in response to the Examiner's assertion that, "...locking data...suggests that the data is read only consistent, so the data can be assessed based on whether the data is locked or not, in other words read or write" (*see* Office Action mailed July 24, 2006, p.10), the Applicant respectfully asserts that the fact that Jensen supports the functionality to lock data overlooks the fact that the claims are directed to a read/write consistency specification that defines the *threshold* decision of whether or not to lock the data. Said another way, the read/write consistency specification defines how an application should use locking mechanisms to control the access of the data in a database, whereas Jensen is limited to disclosure of the locking mechanism itself.

B.   Jensen fails to disclose using a read/write consistency specification when the application enters a particular state

The independent claims recite, in part, "wherein the application accesses data from the database associated with the at least one artifact using a read/write consistency specification when the application enters the at least one of the plurality of the states." This limitation requires that the application access data associated with the artifact in accordance with the read/write consistency specification when the application enters a particular state. As discussed on pages 8 and 9 of the Response mailed May 10, 2006, Jensen fails to disclose the explicit limitation of an application comprising a plurality of states. Further, as discussed above, Jensen fails to disclose a read/write consistency specification. In view of Jensen's failure to disclose a state and a read/write consistency specification, it logically follows that Jensen also does not disclose using the read/write consistency specification when entering a particular state within an application. To find otherwise, the Examiner would be required to read out an explicit limitation of the claim or read the teachings of Jensen in an overly broad fashion.

C.   Jensen fails to disclose generating an application using a read/write consistency specification, a database schema, and an application usage specification

Independent claims 13, 16, and 17 recite, in part, "generating the application using a database schema, the application usage specification, and the read/write consistency specification." The Examiner continues to assert that the following portion of Jensen teaches the limitation recited above (see Office Action mailed July 24, 2006, pp. 6-9):

```
This mechanism uses an object model, database schema, and transform
to define a mapping between the structured database and object
instances of the application. Given these three inputs, it is
possible to construct an object-oriented application that can
retrieve information from the structured database according to the
semantics of the object model. In particular, the application can
retrieve a single object instance (that is, retrieve database
information corresponding to a single object instance) using an
object ID value, and can retrieve object instances related to a given
object instance by following the relationship semantics of the object
model and using foreign key mappings as specified by the transform.
(Jensen, col. 10, 11. 46-57)
```

A review of the aforementioned portion of Jensen cited by the Examiner reveals that there is no

disclosure of using a database schema, an application usage specification, and a read/write

consistency specification to generate an application. More specifically, neither the object model nor

the transformation described in Jensen corresponds to the read/write consistency specification. The

claim recites that the read/write consistency specification "includes at least one of a read

consistency and a write consistency to apply to the at least one artifact." In contrast, Jensen defines

an object model as follows:

```
An "object model" is a set of object classes that together form a
blueprint for building an object-oriented application. Each object
class of an object model can have attributes, inheritances, and
relationships. (Jensen, col. 5, 1. 66 - col. 6, 1. 2)
```

From the above, it is clear that an object model, as expressly defined by Jensen, does

correspond to the read/write consistency specification. Further, the "transform to define a mapping

between the structured database and object instances of the application" (Jensen, col. 10, 11. 47-48)

is also not equivalent to the read/write consistency specification, because the read/write consistency

specification defines at least one of a read consistency and a write consistency to apply to the

artifact. No such teaching is found in the Jensen. Accordingly, in order to continue to assert Jensen

teaches the above limitations of the recited claims, the Examiner is required to improperly read

terms expressly defined in Jensen in an overly broad fashion. Such actions are improper and do not support the continued rejection of the recited claims.
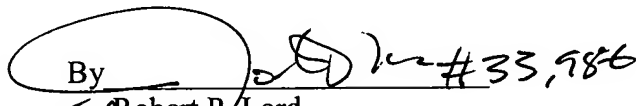
D.   <u>The Examiner Has Clearly Failed to Satisfy the Requirements Set Forth in MPEP § 2131</u>

In view of the above, the Examiner has clearly failed to satisfy all of the requirements set forth in MPEP § 2131 with respect to the pending claims. Accordingly, favorable decision from the panel is respectfully requested.

Dated: October 24, 2006   Respectfully submitted,

By   #33,986

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